

Ramdas s/o Baban Thombre ... **Applicant**  
Age 35 years, Occu: Agriculture,  
R/o Loni-Vyankanath,  
Tq. Shrigonda, Dist. Ahmednagar

The State of Maharashtra,  
Through Police Inspector,  
Shrigonda Police Station,  
District Ahmednagar.

... Respondent

WITH

Rambhau s/o Kashinath Khamkar ... **Applicant**  
Age 61 years, Occu: Retired/Agriculture,  
R/o Ghargaon, Tq. Shrigonda,  
District Ahmednagar

The State of Maharashtra,  
Through Police Inspector,  
Shrigonda Police Station,  
District Ahmednagar.

... Respondent

CORAM : PRAKASH D. NAIK, J.

DATE : 22nd November, 2021

1. These applications are preferred under section 438 of the Criminal Procedure Code for pre-arrest bail in Crime No.651 of 2021

registered with Shrigonda Police Station, District Ahmednagar for the offences under section 420, 409, 34 of the Indian Penal Code. The First Information Report (FIR) was registered on 20th September, 2021.

2. The case of prosecution is as follows:

(a) Complainant is Extension Officer, Panchayat Samiti, Shrigonda. Complaint was forwarded by Dada Madke, S.P. Jagtap, Rajendra Kakde and Swapnil Late alleging that Sarpanch and Gramsevak had misappropriated the amount of Shrigonda Grampanchayat during the period 2018-19 and 2019-20. Enquiry was conducted in that regard and it was revealed that there were financial irregularities, lack of administration and economic misappropriation by Sarpanch and Gram Vikas Officer. Complainant was directed to register offence against them.

(b) The complainant was provided the enquiry reports which include report dated 05.09.2021 by Assistant Block Development Officer, report dated 11.06.2021 by Extension Officer and report dated 05.09.021 by Assistant Engineer, Zilla Parishad, Public Works Dept. Shrigonda. Audit was conducted by the Auditor for a period 01.04.2018 to 31.06.2019 and copy of the same was also handed over to the complainant. On scrutiny of all those documents, it was noticed that Santosh Chandrakant Mane was Sarpanch from 12.06.2018 to 27.11.2019 and it was found that he acted in

connivance with Gramvikas Officer Rambhau Khamkar and misappropriated the amount. Inverter was purchased for Grampanchayat. Amount was shown to have been spent for carrying out POP and on various counts. Amount of Rs.25,56,252/- was misappropriated. Current Sarpanch Ramdas Thombre from 10.01.2020 onwards had connived with Gramvikas Officer Rambhau Khamkar and misappropriated an amount of Rs.1,32,100/-.

3. Applicants moved application for anticipatory bail before the Sessions Court. Application of Ramdas Thombre was rejected by order dated 13.10.2021 and the application preferred Rambhau Khamkar was rejected by order dated 4th October, 2021.

4. Heard both sides.

5. Submission of learned Advocates appearing for the applicants is that the complaint was lodged on account of political rivalry. There is no misappropriation of amount. By elections were held for the post of Sarpanch of Village Panchayat Loni-Vyankanath on 09.01.2021 and applicant Ramdas Thombre was elected as Sarpanch. Earlier Sarpanch was disqualified on the issue of caste validity certificate. Charge of Sarpanch of Village Panchayat Loni-Vyankanath was taken over by him on 18.01.2020. On 30.06.2020 Dada Madke submitted a complainant against the Village Panchayat to Block Development Officer, Panchayat Samiti, Shrigonda. Complaint was pending since six months. Enquiry

was conducted regarding use of fund under the 14th Financial Commission in Village Panchayat Loni-Vyankanath. Another complaint was filed on 02.06.2020 by Swapnil Late making similar allegations to the Guardian Minister. Enquiry was conducted. Four enquiry reports were prepared by enquiry officers. The reports did not indicate misappropriation of the amount by the applicant Ramdas Thombre. He is concerned only with the work of compound wall of Z.P. School at Shindewadi. Cost of the said work was Rs.2,40,000/-. Work was not completed due to lock-down. The work is within estimate and sanctioned by the BDO. Tenders were issued. Estimate of the said work was Rs.1,50,000/- which was sanctioned. The work could not be completed by utilizing the said amount and therefore, Rs.90,000/- were sanctioned from Village fund. By resolution, an amount of Rs. one lakh was given to the Contractor in advance by two cheques dated 16.03.2020 and 17.03.2020. The work of compound wall was completed and Rs.1,40,000/- is yet to be paid to the contractor. Other issue is regarding payment of Rs.32,100/- towards cement to trader Ashok Nagle for Z.P. School, Pawarwadi. The said payment is also made by cheque on 16.02.2020 and the entry in that regard is shown in General Cash Book Register of Village Panchayat Loni-Vyankanath. Payment was made by Village Panchayat in respect of compound wall and receipt was issued by the concerned shop owner on quotation. Resolution was passed by Village Panchayat in respect of tender for wall compound and work order.

6. The FIR is based on surmises and conjectures. Enquiry reports reveal shortcomings which are at the most irregularities. Mere irregularities cannot be termed as misappropriation. There is no misappropriation by the applicants. Aggrieved persons who lodged complaints had pressurized the authorities to register FIR. There is encroachment on government land i.e. gat No.2 of Village Loni by brother of one of the complainant. Request for regularization of the encroachment was not fulfilled by the Village Panchayat and therefore, he lodged complaint. Report of enquiry regarding the work at Village Panchayat Loni-Vyankanath is incorrect. There is no proof that the amount was misappropriated. Zilla Parishad and Panchayat Samiti Shrigonda are bound to inspect the work and prepare valuation report of the work. Due to political rivalry and pressure, offences were registered against the applicants. The offences under sections 420, 406 and 409 IPC are not attracted in the present case. The applicants have no criminal antecedents. Matter relates to document. There is nothing to be recovered from the applicants. Investigation Officer is in possession of the required documents. Liability of the applicant Ramdas Thombre is only to the extent of Rs.1,32,100/-. He is presently Sarpanch of Village Panchayat Loni-Vyankanath. Custodial interrogation of the applicant was not necessary.

7. The applicant Rambhau Khamkar is retired Gram Vikas Officer. It is contended on his behalf that the allegations are false. The

complaints are politically motivated. Complainants went on hunger strike for registration of the FIR against the applicants. The period of alleged misappropriation is financial years 2018-19 and 2019-20. There were 11 heads under which allegations were made. Almost under all the heads work is done. The FIR refers to purchase of inverter of Rs.25,000/-, Village Panchayat office POP work, road repairs, extension of Village Panchayat building, paver blocks in front of Panchayat, street lights, furniture etc. works. Allegation of misappropriation was of Rs.1,32,000/- which was for not constructing compound to the ZP school. The schools were visited and it was noticed that compound gate etc. are constructed. The applicant had relied upon the photographs of compound-gate and certificate of work completion dated 4th October, 2011. Rest of the allegation for amount of Rs.25,56,252/- cannot be termed as misappropriation. At the most, it can be termed as expenses without administrative sanction or without tender or exceeding work order expenses. It can be said to be irregularities and not misappropriation. The applicant Rambhau Khamkar is retired in June, 2020. Preliminary enquiry was conducted in respect to the complaint in September, 2020 and FIR was registered on 20.09.2021 which is after one and half year after the retirement of the applicant.

8. Learned APP submitted that investigation is in progress. Both the applicants are involved in the crime. Applicant Ramdas Thombre had acted in connivance with Rambhau Khamkar and misappropriated

the amount of Rs.1,32,100/-. Santosh Mane had acted in connivance with Rambhau Khamkar and was involved in misappropriation of Rs. 25,56,252/-. Custodial interrogation of the applicants is necessary. the applicants have caused loss to the Government. Investigation is to be conducted by interrogating the applicants to find out whether there was any misappropriation in Loni Vyankanath Grampanchayat. The applicants are likely to tamper with evidence and or destroy the evidence in the event relief is granted to them. Enquiry was conducted in respect of allegation of irregularities and misappropriation. During enquiry it was revealed that the accused are involved in misappropriation as stated above. Offence is of serious nature. Misappropriation was revealed in three different enquiry reports. amount was spent in excess of sanction and in some cases without sanction. Applicant Ramdas Thombre is Sarpanch of the Village Panchayat. Both the applicants were involved in misappropriation of public fund. Enquiry reports point out the complicity of the applicants.

9. From the record, it appears that almost all the work was completed. While rejecting the application preferred by the applicant Ramdas Thombre and another accused, learned Sessions Judge has observed that applicant Ramdas Thombre was Sarpanch for the period 2019-20. Enquiry report dated 11.06.2021 is in respect of 11 transactions. Though most of the transactions mentioned there in are in respect of irregularities, Transaction No.1 in respect of purchase of

inverter is not merely an irregularity. The work was in respect of purchase of inverter for the office of Village Panchayat and in fact the inverter was found in one school at Kakade Vasti. Inverter was purchased without quotation. It may be regularity but report discloses that inverter purchased was not installed in Village Panchayat and hence it seems to be misappropriation. From the said observation, it is apparent that inverter was indeed purchased and instead of installing it in Grampanchayat office, it was allegedly found in the school. It can be inferred that there was misappropriation of the amount. The order further indicates that other 10 transactions are in respect of furniture in Village Panchayat office for Rs.9,18,000/- which was beyond the sanctioned work. Excess expenses of Rs.68,258/- is allegedly misappropriation of fund. Other enquiry report dated 05.09.2021 shows that transaction at Sr. Nos. 1 to 5 were without technical sanction and the enquiry report discloses that no work was completed. Thus, the amount spent seems to be misappropriation of public fund. It is pertinent to note that the audit report did not refer to misappropriation of fund. Thus, it appears that the work was completed and articles were purchased. Inference was drawn that the amount is misappropriated.

10. While rejecting the application of applicant Rambhau Khamkar, it was observed that economic offence are serious. The order does not make any observation on the merits of the case and as to how there is misappropriation of fund. The order merely mentions that such offences

are serious and affecting economy. The entire Case relates to document. Most of the allegations are based on surmises.

11. In the light of the factual aspects of the matter, the applicants need not be subjected to custodial interrogation. Hence, I pass the following order :-

**ORDER**

- i. Anticipatory Bail Applications No.1358 and 1324 of 2021 are allowed.
- ii. In the event of arrest of applicants in connection with CR No.0651 of 2021 registered with Shrigonda Police Station Dist.Ahmednagar, the applicants be released on bail on their executing P.R. Bond in the sum of Rs.25,000/-, each with one or two sureties in the like amount.
- iii. Applicants shall report Investigating Officer on 29th, 30th, November, 2021 and 1st December, 2021 at 11.00 am to 01.00 pm and thereafter, as and when called for, till filing of the charge-sheet.
- iv. Applications stand disposed of.

(PRAKASH D. NAIK, J.)

JPC